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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,344	03/10/2004	Bill H. McAnalley	23100.64	4291
27683	7590	12/16/2004	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			FLOOD, MICHELE C	
			ART UNIT	PAPER NUMBER
			1654	

DATE MAILED: 12/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/797,344

Applicant(s)

MCANALLEY ET AL.

Examiner

Michele Flood

Art Unit

1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-31 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claim 1, drawn to a method for the treatment of alcohol dependence comprising the oral administration of a dietary supplement comprising claim-designated ingredients wherein at least a portion of the claim-designated ingredients are predigested, classified in class 514, subclass 811.
- II. Claim 2, drawn to a method for the reduction of undesired side effects in humans receiving an agent that causes sided effects comprising the oral administration of a dietary supplement comprising claim-designated ingredients wherein at least a portion of the claim-designated ingredients are predigested, classified in class 424, subclass 406.
- III. Claims 3-8, drawn to a method for producing correctly structured and properly functioning glycoproteins and/or glycolipids comprising administering a nutritionally effective amount of at least one saccharide, classified in class 514, subclass 23.
- IV. Claims 9-10, drawn to a method for producing correctly structured and properly functioning glycoproteins and/or glycolipids comprising administering a claim-designated composition, classified in class 514, subclass 22.

- V. Claim 11, drawn to a method of providing a host in need of essential saccharides with a dietary supplement composition, classified in class 426, subclass 458.
- VI. Claim 12, drawn to a method of providing a subject with essential saccharides comprising administering at least two saccharides, classified in class 514, subclass 22.
- VII. Claims 13-17, drawn to a method for the promotion and maintenance of good health comprising the administration of at least two monosaccharides, classified in class 514, subclass 23.
- VIII. Claim 18, drawn to a method for the treatment of alcohol dependence comprising the oral administration of a dietary supplement comprising effective amounts of claim-designated ingredients, classified in class 514, subclass 811.
- IX. Claim 19, drawn to a method for the reduction of undesired side effects in humans receiving an agent that causes side effects comprising the oral administration of a dietary supplement comprising claim-designated ingredients, classified in class 424, subclass 466.
- X. Claims 20-25, drawn to a method for producing correctly structured and properly functioning glycoproteins and/or glycoproteins comprising administering a dietary supplement comprising six saccharides, classified in class 514, subclass 22 or 23 or 53-62.

- XI. Claims 26-27, drawn to a method for producing correctly structured and properly functioning glycoproteins and/or glycoproteins comprising administering a specified claim-designated composition, classified in class 514, subclass 22 or 23 or 53-62.
- XII. Claims 28-31, drawn to a method for treating or preventing reduced glyconutrient levels of at least one saccharide, classified in class 426, subclass 658.

The inventions are distinct, each from the other because of the following reasons:

Inventions I-XII are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the twelve different groups are directed twelve methods of treatment comprising the administration of different combinations of different ingredients. The administration of different ingredients are not expected to have the same functional effect, as evidenced by the claims themselves.

Because these inventions are distinct for the reasons given above and the search required for one Group is not required for another Group, restriction for examination purposes as indicated is proper.


Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Flood whose telephone number is 571-272-0964. The examiner can normally be reached on 7:00 am - 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


MICHELE FLOOD
PATENT EXAMINER

MCF
December 13, 2004